

Forestry Outline

I. Organizational Structure

A. The Divisions of State Parks, Urban Parks and Water Supply Protection

1. DCR is comprised of three operational divisions: the division of state parks and recreation, the division of urban parks and recreation, and the division of water supply protection. G. L. c. 21, § 1.
2. The division of urban parks and recreation has control over the state parks, forests, parkways, waterways, rinks, pools, beaches and other recreational lands and facilities of DCR within the urban parks district that is comprised of thirty-six municipalities within the Greater Boston area. G. L. c. 21, § 1.
3. The division of state parks and recreation has control over the state parks, forests, parkways, waterways, rinks, pools, beaches and other recreational lands and facilities outside of the geographic area defined as the urban parks district. G. L. c. 21, § 1, c. 92, § 33, and c. 132A, § 3.
4. The director of the division of state parks and recreation shall promote the perpetuation, extension and proper management of the public and private forest lands of the commonwealth, and perform such other duties as may be imposed upon him by the governor G. L. c. 132, § 1.

B. Bureaus of Forest Fire Control, Forestry and Recreation

1. Within DCR are three bureaus: forest fire control, forestry, and recreation. G. L. c. 132A, § 1C.
2. The bureau of forestry, with the commissioner's approval, is charged with performing such duties concerning forest management practices, reforestation, development of forest or wooded areas under DCR's control, making them in perpetuity income producing and improving such wooded areas. G. L. c. 132A § 1F.
3. The bureau is also responsible for such other duties that were vested in the former bureau of shade tree management and pest control by the general laws or any special laws, and is responsible for shade tree management, arboricultural service, and suppression of insects defined as public nuisances in G. L. c. 132, § 11. See G. L. c. 132, § 1A.
4. The bureau, subject to the commissioner's approval, may promulgate rules and regulations to carry out its pest and nuisance control duties and powers. G. L. c. 132, § 11.

II. DCR Mission

A. Core Agency Duties; G. L. c. 21, § 1

It shall be the duty of the Department of Conservation and Recreation to exercise general care and oversight of the natural resources of the commonwealth and of its adjacent waters; to make investigations and to carry on research relative thereto; and to propose and carry out measures for the protection, conservation, control, use, increase, and development thereof.

The words "natural resources", as used herein, shall be held to include ocean, shellfish and inland fisheries; wild birds, including song and insectivorous birds; wild mammals and game; sea and fresh water fish of every description; forests and all uncultivated flora, together with public shade and ornamental trees and shrubs; land, soil and soil resources, lakes, ponds, streams, coastal, underground and surface waters; minerals and natural deposits. The department shall also be concerned with the development of public recreation as related to such natural resources; and shall have control and supervision of such parks, forests, and areas of recreational, scenic, or historic significance as may be from time to time committed to it.

B. Forest Cutting Practices Act; Declaration of Policy; G. L. c. 132, § 40.

It is hereby declared that the public welfare requires the rehabilitation, maintenance, and protection of forest lands for the purpose of conserving water, preventing floods and soil erosion, improving the conditions for wildlife and recreation, protecting and improving air and water quality, and providing a continuing and increasing supply of forest products for public consumption, farm use, and for the woodusing industries of the commonwealth.

C. Article 97 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts

The people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment; and the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air and other natural resources is hereby declared to be a public purpose.

- No land or interest in land acquired and held by DCR can be conveyed out or put to an inconsistent use unless the Legislature authorizes such conveyance or change in use by two-thirds roll-call vote.

D. Development of Resource Management Plans; G. L. c. 21 § 2F

1. The directors of the divisions of State Parks and Urban Parks shall work in cooperation with the director of the division of fisheries and wildlife within the Department of Fish and Game to establish coordinated management guidelines for sustainable forestry practices on public forest lands within DCR and on private forest

lands. Said guidelines for public forest lands shall include agreements on equipment, personnel transfers, operational costs, and assignment of specific management responsibilities.

DCR shall submit management plans to the Stewardship Council for the council's adoption with respect to all reservations, parks, and forests under the management of the Department, regardless of whether such reservations, parks, or forests lie within the urban parks district or outside the urban parks district. Said management plans shall include guidelines for the operation and land stewardship of the aforementioned reservations, parks and forests, shall provide for the protection and stewardship of natural and cultural resources, and shall ensure consistency between recreation, resource protection, and sustainable forest management.

DCR shall be responsible for implementing said management plans, with due regard for the above requirement.

2. For land in the division of water supply protection, the commissioner shall adopt watershed management plans prepared with the participation of a professionally qualified forester and the appropriate watershed advisory committee. Watershed management plans shall provide for, but need not be limited to, forestry, water yield enhancement and recreational activities. All forestry activities shall be subject to the Forest Cutting Practices Act (G. L. c. 132, §§ 40-46). G. L. c. 92A ½, § 16.

III. Other Forestry Obligations and Authority

A. Lands acquired under G. L. c. 132, §§ 30 or 33¹ shall be known as state forests, and shall be under the control and management of the forester.² Lands acquired by purchase for experiment and illustration in forest management and for reforestation under the provisions of [St. 1908, c. 478] and amendments thereof, or of the corresponding provisions of later laws, . . . shall also be known as state forests and shall be under the control and management of the forester. G. L. c. 132, § 31.

- DCR no longer relies on G. L. c. 132, § 30, to acquire land, as acquisition under this provision is limited to an average cost not to exceed five dollars an acre.
- DCR relies on G. L. c. 132A, § 3, to acquire land outside the urban parks district for purposes of conservation or recreation, and may lay out and maintain such lands for such purposes and erect and maintain such structures and other facilities thereon as may be necessary to render such lands reasonably available and accessible therefor.

¹ Section 33 authorized a land acquisition and reforestation program that, by its terms, expired in 1956. This section was repealed in 2003.

² The "forester" in G.L. c. 132 is the Director of State Parks and Recreation

- DCR regards forestry management within the meaning of conservation and recreation purposes.

B. The forester shall reforest and develop state forest lands, and may, subject to the approval of the commissioner, make all reasonable regulations which in his opinion will tend to increase the public enjoyment and benefit therefrom and to protect and conserve the water supplies of the commonwealth. G. L. c. 132, § 31.

C. The forester shall, based on the recommendations of the State Forestry Committee and subject to the commissioner's approval, put into effect minimum forest cutting practices and guidelines for purposes of the Forest Cutting Practices Act. G. L. c. 132, §41.

D. The commissioner of DCR may at any time sell wood, timber or other products of the state forests as the economical management of said forests may require. All moneys received shall be paid into the state treasury. G. L. c. 132, §34A; G. L. c. 132A, §3.

IV. Long-term programs; powers of commissioner; G. L. c. 132A, § 2A.

The commissioner is hereby authorized and directed to establish a long-term program of state parks, state forest recreation areas and state reservations, and for such purpose may improve areas now under the control of [DCR] and acquire adequate land and water areas for said facilities and approaches thereto.

V. Nature of use of acquired lands G. L. c. 132A, § 2B.

It is hereby declared to be the policy of the commonwealth that all such sites acquired or developed by the commissioner shall in so far as practicable be preserved in their natural state; that they shall be in so far as possible collectively self-supporting; and that no commercial activities except those essential to the quiet enjoyment of the facilities by the people shall be permitted.

VI. Legal's Role in Policy Development.

- This Office is hopeful that it has provided the Steering Committee with a useful overview of DCR's statutory authority for forestry programs and activities.
- As a general matter, interpretation of these statutory provisions is guided by a body of case law, administrative decisions, enforcement initiatives, regulations and policy /guidance documents.
- In the forestry program, there is very little case law and few administrative decisions. Policy documents include:
 1. Resource Management Plans
 2. Forest Cutting Practices Regulations; and
 3. Forest Cutting Practices Act Policy Document (Effective January 1, 2004)

VII. Agency Need for Enforcement Legislation

Under DCR's existing legislative authority, existing penalty provisions are insufficient to deter violators from violating established Forest Cutting Practices, and cannot be assessed or collected by DCR.

- G. L. c. 132, § 34, establishes a criminal fine not to exceed \$25 for violating a duly promulgated rule or regulation for hunting and fishing or other uses of state park land;
- G. L. c. 132A, § 7, establishes a criminal fine not to exceed \$20 for violating a duly promulgated rule or regulation concerning the government and use of all property under the control of State Parks.
- G. L. c. 132, § 43, establishes a criminal fine not to exceed \$100 per acre upon any person who (1) fails to give notice and a written plan, to the director agent required under § 42, or (2) either as land or stumpage owner or independent contractor fails to follow the plan of operations approved or not disapproved by said director.
- G. L. c. 132, § 46 and § 49 establish a criminal fine not to exceed \$500 on persons who engage in harvesting or forestry, respectively, without a license.

VIII. State Forester Memo

Please see attached memorandum regarding the definition of the terms "'state forester" and "forester."